



CITY OF SOUTH MIAMI
OFFICE OF THE CITY MANAGER
INTER-OFFICE MEMORANDUM

TO: The Honorable Mayor & Members of the City Commission

FROM: Steven Alexander, City Manager

DATE: June 2, 2015

Agenda Item No.: **3**

SUBJECT: A Resolution authorizing the City Manager to extend the existing agreement to the end of the fiscal year and to enter into a multi-year agreement with Gomez Barker Associates, Inc. for Lobbying Services as required by the City.

Background: The firm of Gomez Barker Associates, Inc. has been serving the City for many years and continues to provide and serve the City with expert consulting services. The City relies on lobbying and consulting services as well as representation to ensure the City is successful in securing appropriates and funding during the State of Florida Legislature, State of Florida administrative agencies, the Florida Governor and Cabinet.

Due to the difference between the termination date of the current contract and the beginning of the new fiscal year, we are proposing to extend the current contract for three months to bridge the gap enabling us to start the new contract concurrent with the new fiscal year.

The term of this contract is for three (3) years and shall be automatically renew for an additional two (2) year period unless the City or the contractor do not wish to renew at the end of the initial three year period. The term of this contract shall commence on June 30, 2015 for a three year period.

For the first three year term the contract price shall be \$54,000 per year; and for the extension term the contract it shall be \$60,000 per year unless a higher rate is agreed upon in writing and approved by the City Commission.

AMOUNT: \$162,000 for a three year period.

ACCOUNT: 001-1310-513-3450

ATTACHMENTS: Resolution for approval.
Agreement for Legislative Consultant Services with Gomez Barker Associates, Inc.

AGREEMENT FOR EXPERT LEGISLATIVE CONSULTANT SERVICES

THIS AGREEMENT, entered into this 16th day of June, 2015, by the CITY OF SOUTH MIAMI through its Manager, both of whom shall be hereinafter referred to as the "CITY" where applicable; located at 6130 Sunset Drive, South Miami, FL., E-mail: salexander@southmiamifl.gov and Gomez Barker Associates, Inc. a Florida corporation, with an office and principal place of business located at 2350 Coral Way, #301, Miami, FL, 33145, (hereinafter called the "CONTRACTOR").

WITNESSETH:

WHEREAS, the CITY is in need of expert legislative consulting services; and

WHEREAS, the CITY desires to retain the CONTRACTOR to provide the required services based on the CONTRACTOR's representations that it is qualified and capable of providing said services in a professional and timely manner and in accordance with the CITY's goals and requirements; and

WHEREAS, the CONTRACTOR has agreed to provide the required services in accordance with the terms and conditions set forth herein.

WHEREAS, the CITY seeks to retain a qualified individual or CONTRACTOR to represent the CITY in matters relating to the services of an expert legislative consultant; and

WHEREAS, the CITY needs professional services before the Florida Legislature, State of Florida administrative agencies, the Florida Governor and Cabinet, etc.; and

WHEREAS, the CITY has employed the services of Gomez Barker since 2012 and they have served the CITY with excellent results;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1) **Engagement Of Contractor:** Based on the representations of the CONTRACTOR the CITY hereby retains the CONTRACTOR to provide the services set forth below in the Scope of Services. The CITY Attorney has determined that CONTRACTOR is an expert for purposes of the CITY's purchasing policies.

2) **Contract Documents:** The Contract Documents shall include this Contract and the following documents, as well as any attachments or exhibits that are made a part of any of the documents.

3) **Date of Commencement:** The CONTRACTOR shall commence the performance of the Work under this Contract on October 1, 2015. Time is of the essence.

4) **Primary Contacts:** The Primary Contact Person in charge of administering this Contract on behalf of the CITY is the CITY Manager ("Manager"), assistant Manager, or the Manager's designee, who shall be designated in a writing signed by the Manager. The Primary Contact Person for the CONTRACTOR and his/her contact information is as follows: Fausto B. Gomez, e-mail: fgomez@gomezbarker.com; 2350 Coral Way, #301, Miami, FL, 33145.

- 5) **Scope of Services:** The services to be provided are as set forth in Exhibit 1, which is attached hereto and made a part of hereof by reference. If there is any conflict between the terms of this Agreement and attached Exhibit 1, this Agreement shall govern. These documents, and all attachments and exhibits to these documents, if any, shall, hereinafter, be referred to as the Contract Documents.
- 6) **Compensation:** The CONTRACTOR's compensation for the performance of this contract (hereinafter referred to as the Contract Price) shall be \$54,000 for the first three-year term, and \$60,000 for the extension term unless a higher rate is agreed upon in writing and approved by the City Commission.
- 7) **Time Provisions:** The term of this contract is three (3) years and shall be automatically renew for an additional three (3) year period unless the CITY or the CONTRACTOR do not wish to renew at the end of the initial three-year period. The term of this contract shall commence on the October 1, 2015.
- 8) **Termination:** This contract may be terminated without cause by the CITY with 30 days of advanced written notice. This provision supercedes and takes precedence over any contrary provisions for termination contained in the Contract Documents.
- 9) **Applicable Law and Venue:** Florida law shall apply to the interpretation and enforcement of this Contract. Venue for all proceedings shall be in Miami-Dade County, Florida.
- 10) **Insurance and Indemnification:** CONTRACTOR shall comply with the insurance and indemnification requirements as set forth in the attached Exhibit 2.
- 11) **Jury Trial Waiver:** The parties waive their right to jury trial.
- 12) **Entire Agreement, Modification, and Non-waiver:** The Contract Documents constitute the entire agreement of the parties and supersedes any prior agreements, written or oral. The Contract Documents may not be modified or amended except in writing, signed by both parties hereto. The Contract Documents, in general, and this paragraph, in particular, shall not be modified or amended by any acts or omissions of the parties. No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver. No waiver of the Contract Documents, in whole or part, including the provisions of this paragraph, may be implied by any act or omission.
- 13) **Public Records:** CONTRACTOR and all of its subcontractors are required to comply with the public records law (s.119.0701) while providing goods and/or Services on behalf of the CITY and the CONTRACTOR, under such conditions, shall incorporate this paragraph in all of its subcontracts for this Project.
- 14) **Drug Free Workplace.** The CONTRACTOR shall comply with the Drug Free Workplace policy set forth in the CITY of South Miami's Personnel Manual, which is made a part of this Contract by reference.

15) Transfer and Assignment. None of the work or services under this contract shall be subcontracted or assigned without prior written consent from the CITY, which may be denied without cause.

16) Notices. All notices given or required under this contract shall be deemed sufficient if sent by a method that provides written evidence of delivery, including e-mail and delivered to the CONTRACTOR or his designated contact person. Return of mail, sent to the address contained herein for the parties or their contact persons, as not deliverable or for failure to claim the mail shall be deemed received on the date that the mail is returned to sender.

IN WITNESS WHEREOF, the parties, have executed this Contract, on or before the date first above written, with full knowledge of its content and significance and intending to be legally bound by the terms hereof.

Witnessed:

By: 

Gomez Barker Associates, Inc.

By: 

FAUSTO B. GOMEZ
(print name of signatory)

ATTESTED:

By: 

Maria Mercedes
CITY Clerk

CITY OF SOUTH MIAMI

By: 

Steven Alexander
CITY Manager

Read and Approved as to Form, Language,
Legality and Execution thereof:

By: 

CITY Attorney

EXHIBIT 1

SCOPE OF SERVICES

- a) **CONTRACTOR** shall represent the **CITY** in matters relating to the services of a legislative consultant for matters in which the **CITY** may need professional services before the Florida Legislature, State of Florida administrative agencies, the Florida Governor and Cabinet, etc. Such services shall include, but not be limited to, attending state legislative committee hearings and meetings, rulemaking proceedings or other administrative or legislative agency meetings.
- b) The contract services to be provided by the **CONTRACTOR** shall include, but not be limited to, the following: regular, extended, or special legislative sessions and meetings; state administrative and agency hearings, meetings or rule making proceedings; and legal and legislative consulting services in accord with the terms, conditions and specifications contained in this agreement and the scope of service. The **CONTRACTOR** shall agree to be available at all times upon reasonable request to meet with the **CITY** Commission, **CITY** staff, and others as specified in order to perform the responsibilities assigned; and to attend meetings, represent the interests of the **CITY**, and act as liaison between the **CITY** and all branches, departments, and agencies of State government, at any legislative committee meeting or meetings with the Governor, Cabinet or Cabinet members, or state agencies on matters under the scope of service.
- c) The **CONTRACTOR** shall monitor proposals and activities in meetings regarding state administrative and agency hearings, as well as in rule challenges in the Division of Administrative Hearings. This shall include, but not be limited to, a review of the agendas and provision of notification to the **CITY** as pertinent issues arise. The **CONTRACTOR** shall also report the outcome of such meetings and shall be prepared to lobby committee members prior to the same such meetings in an effort to advance the **CITY**'s desired positions.
- d) There is no finite number of **CITY** meetings or meetings of governmental agencies that **CONTRACTOR** shall be required to attend and in which he must actively participate. The number of meeting will be determined by the **CITY** and will be on an as needed basis.
- e) **Specific Duties and Responsibilities:**
- Review on a continuing basis all existing and proposed State policies, programs, and legislation; identifying those issues that may affect the **CITY** or its citizens and regularly inform the **CITY** of the same; and, provide legal and legislative expertise and consulting services.
 - Review the legislative policy statements adopted by the Florida League of Cities and the policy statements of other local government lobbying groups for the purpose of identifying issues, which may impact the **CITY**.
 - Assist the **CITY** Commission and **CITY** staff in the coordination and development of the **CITY**'s legislative program which may include, but are not limited to, the following: public safety, law enforcement, business attraction and retention, infrastructure improvements, telecommunications, transportation, solid waste, environmental, affordable housing, economic development, revenue enhancement, annexation, mandates and other issues.

- Monitor state legislative committee meetings, state agency hearings and meetings prior to and during regular and special legislative session(s) at which specific issues within the CITY's adopted legislative program are considered, as well as other issues that may arise.
- Work with the CITY Commission, staff and the Miami-Dade County Legislative Delegation developing special or general legislation in keeping with, or supportive of, the CITY's adopted legislative program.
- Develop and evaluate strategy for the support, opposition, or amendment of pending legislation.
- Testify and lobby before the Legislature, Governor and Cabinet, and the Public Service Commission as necessary on behalf of the CITY, during the annual legislative session, extended, or special session(s) and at legislative committee meetings and meetings of the Miami-Dade County Legislative Delegation.
- Appear and testify before state agency hearings, rulemaking proceedings and other administrative agency or legislative meetings, as required, to promote, oppose, and seek passage of legislation affecting the CITY or its citizens, and specific legislation contained in the CITY's legislative program or as expressed by Resolution.
- Upon request, coordinate appointments/meetings between the CITY Commission or other CITY staff and appropriate state officials and legislators.
- Such reports may include, but not be limited to, personal briefings and information bulletins pertinent to any legislation, rules, or regulations, and other state policies or programs that affect the CITY and its citizens either directly or indirectly. A written summary report shall be submitted at the end of each Session detailing legislative action taken during the Session, status of legislative issues, and actions by the Governor relative to such legislation.
- Provide periodic written reports during those months that the Legislature is not in session, on issues of interest or concern to the CITY. Such information may include, but is not limited to, action taken at interim committee meetings, rulemaking hearings, status of studies underway, and advance notice of legislation being proposed.
- Upon request by the CITY, assist the CITY in coordinating applications and obtaining State permits and grants.

EXHIBIT 2

Insurance and Indemnification

Insurance Requirements

Without limiting its liability, the contractor, consultant or consulting firm (hereinafter referred to as "FIRM" with regard to Insurance and Indemnification requirements) shall be required to procure and maintain at its own expense during the life of the Contract, insurance of the types and in the minimum amounts stated below as will protect the FIRM, from claims which may arise out of or result from the contract or the performance of the contract with the City of South Miami, whether such claim is against the FIRM or any sub-contractor, or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

No insurance required by the CITY shall be issued or written by a surplus lines carrier unless authorized in writing by the CITY and such authorization shall be at the CITY's sole and absolute discretion. The FIRM shall purchase insurance from and shall maintain the insurance with a company or companies lawfully authorized to sell insurance in the State of Florida, on forms approved by the State of Florida, as will protect the FIRM, at a minimum, from all claims as set forth below which may arise out of or result from the FIRM's operations under the Contract and for which the FIRM may be legally liable, whether such operations be by the FIRM or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the FIRM's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the FIRM's employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting there from; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims for bodily injury or property damage arising out of completed operations; and (h) claims involving contractual liability insurance applicable to the FIRM's obligations under the Contract.

Firm's Insurance Generally. The FIRM shall provide and maintain in force and effect until all the Work to be performed under this Contract has been completed and accepted by CITY (or for such duration as is otherwise specified hereinafter), the insurance coverage written on Florida approved forms and as set forth below:

Workers' Compensation insurance at the statutory amount as to all employees in compliance with the "Workers' Compensation Law" of the State of Florida including Chapter 440, Florida Statutes, as presently written or hereafter amended, and all applicable federal laws. In addition, the policy (ies) must include: Employers' Liability at the statutory coverage amount. The FIRM shall further insure that all of its Subcontractors maintain appropriate levels of Worker's Compensation Insurance.

Commercial Comprehensive General Liability insurance with broad form endorsement, as well as automobile liability, completed operations and products liability, contractual liability, severability of interest with cross liability provision, and personal injury and property damage liability with limits of \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate, including:

- Personal Injury: \$1,000,000;
- Medical Insurance: \$5,000 per person;
- Property Damage: \$500,000 each occurrence;

Umbrella Commercial Comprehensive General Liability insurance shall be written on a Florida approved form with the same coverage as the primary insurance policy but in the amount of \$1,000,000 per claim and \$2,000,000 Annual Aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- (a) Premises and Operation
- (b) Independent Contractors
- (c) Products and/or Completed Operations Hazard
- (d) Explosion, Collapse and Underground Hazard Coverage
- (e) Broad Form Property Damage
- (f) Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement.
- (g) Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

Miscellaneous:

If any notice of cancellation of insurance or change in coverage is issued by the insurance company or should any insurance have an expiration date that will occur during the period of this contract, the FIRM shall be responsible for securing other acceptable insurance prior to such cancellation, change, or expiration so as to provide continuous coverage as specified in this section and so as to maintain coverage during the life of this Contract.

All deductibles must be declared by the FIRM and must be approved by the CITY. At the option of the CITY, either the FIRM shall eliminate or reduce such deductible or the FIRM shall procure a Bond, in a form satisfactory to the CITY covering the same.

The policies shall contain waiver of subrogation against CITY where applicable, shall expressly provide that such policy or policies are primary over any other collectible insurance that CITY may have. The CITY reserves the right at any time to request a copy of the required policies for review. All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY as well as contractual liability provision covering the Contractors duty to indemnify the City as provided in this Agreement.

Before starting the Work, the FIRM shall deliver to the CITY and, certificates of such insurance, acceptable to the CITY, as well as the insurance binder, if one is issued, the insurance policy, including the declaration page and all applicable endorsements and provide the name, address and telephone number of the insurance agent or broker through whom the policy was obtained. The insurer shall be rated A.VII or better per A.M. Best's Key Rating Guide, latest edition and authorized to issue insurance in the State of Florida. All insurance policies must be written on forms approved by the State of Florida and they must remain in full force and effect for the duration of the contract period with the CITY. The FIRM may be required by the CITY, at its sole discretion, to provide a "certified copy" of the Policy (as defined in Article 1 of this document), which shall include the declaration page and all required endorsements. In addition, the FIRM shall deliver, at the time of delivery of the insurance certificate, the following endorsements:

- (a) a policy provision or an endorsement with substantially similar provisions as follows:
"The City of South Miami is an additional insured. The insurer shall pay all sums that the City of South Miami becomes legally obligated to pay as damages because of 'bodily injury', 'property damage', or 'personal and advertising injury' and it will provide to the City all of the coverage that is typically provided under the standard Florida approved forms for commercial general liability coverage A and coverage B";

(b) a policy provision or an endorsement with substantially similar provisions as follows:

"This policy shall not be cancelled (including cancellation for non-payment of premium), terminated or materially modified without first giving the City of South Miami ten (10) days advanced written notice of the intent to materially modify the policy or to cancel or terminate the policy for any reason. The notification shall be delivered to the City by certified mail, with proof of delivery to the City."

Professional Liability Insurance on a Florida approved form in the amount of \$1,000,000 with deductible per claim if any, not to exceed 5% of the limit of liability providing for all sums which the FIRM shall become legally obligated to pay as damages for claims arising out of the services or work performed by the FIRM its agents, representatives, Sub Contractors or assigns, or by any person employed or retained by him in connection with this Agreement. This insurance shall be maintained for four years after completion of the construction and acceptance of any Project covered by this Agreement. However, the FIRM may purchase Specific Project Professional Liability Insurance, in the amount and under the terms specified above, which is also acceptable. No insurance shall be issued by a surplus lines carrier unless authorized in writing by the city at the city's sole, absolute and unfettered discretion.

Contractor's Responsibility Prior to Receiving a Notice to Proceed

Prior to the City issuing a Notice to Proceed, the contractor shall deliver a copy (either hard copy or, preferably, electronically) of the policy, including the declaration page of the policy and all endorsements to the policy and provide the City with the name, address, including email address, and phone number of the contractor's insurance agent.

If the policy does not have a provision or endorsement that provides the City with advanced notice of cancellation as required by the City, the contractor may still comply with the City's insurance requirement if the contractor provides the City with proof that the policy premium has been paid in full and provided the contractor makes arrangements with its insurance company to allow the City to confirm, monthly, that the policy is in full force and effect. In addition, the Contractor must either pay the City a monthly monitoring fee, currently set at \$25 per month, or have the amount deducted from the Contractor's draws/payments.

Indemnification Requirement

A. The Contractor accepts and voluntarily incurs all risks of any injuries, damages, or harm which might arise during the work or event that is occurring on the CITY's property due to the negligence or other fault of the Contractor or anyone acting through or on behalf of the Contractor.

B. The Contractor shall indemnify, defend, save and hold CITY, its officers, affiliates, employees, successors and assigns, harmless from any and all damages, claims, liability, losses, claims, demands, suits, fines, judgments or cost and expenses, including reasonable attorney's fees, paralegal fees and investigative costs incidental thereto and incurred prior to, during or following any litigation, mediation, arbitration and at all appellate levels, which may be suffered by, or accrued against, charged to or recoverable from the City of South Miami, its officers, affiliates, employees, successors and assigns, by reason of any causes of actions or claim of any kind or nature, including claims for injury to, or death of any person or persons and for the loss or damage to any property arising out of a negligent error, omission, misconduct, or any gross negligence, intentional act or harmful conduct of the Contractor, its contractor/subcontractor or any of their officers, directors, agents, representatives, employees, or assigns, or anyone acting through or on behalf of any of them, arising out of this Agreement, incident to it, or resulting from the performance or non-performance of the Contractor's obligations under this AGREEMENT.

C. The Contractor shall pay all claims, losses and expenses of any kind or nature whatsoever, in connection therewith, including the expense or loss of the CITY and/or its affected officers, affiliates, employees, successors and assigns, including their attorney's fees, in the defense of any action in law or

equity brought against them and arising from the negligent error, omission, or act of the Contractor, its Sub-Contractor or any of their agents, representatives, employees, or assigns, and/or arising out of, or incident to, this Agreement, or incident to or resulting from the performance or non-performance of the Contractor's obligations under this AGREEMENT.

D. The Contractor agrees and recognizes that neither the CITY nor its officers, affiliates, employees, successors and assigns shall be held liable or responsible for any claims, including the costs and expenses of defending such claims which may result from or arise out of actions or omissions of the Contractor, its contractor/subcontractor or any of their agents, representatives, employees, or assigns, or anyone acting through or on behalf of the them, and arising out of or concerning the work or event that is occurring on the CITY's property. In reviewing, approving or rejecting any submissions or acts of the Contractor, CITY in no way assumes or shares responsibility or liability for the acts or omissions of the Contractor, its contractor/subcontractor or any of their agents, representatives, employees, or assigns, or anyone acting through or on behalf of them.

E. The Contractor has the duty to provide a defense with an attorney or law firm approved by the City of South Miami, which approval will not be unreasonably withheld.

F. However, as to design professional contracts, and pursuant to Section 725.08 (1), Florida Statutes, none of the provisions set forth herein above that are in conflict with this subparagraph shall apply and this subparagraph shall set forth the sole responsibility of the design professional concerning indemnification. Thus, the design professional's obligations as to the City and its agencies, as well as to its officers and employees, is to indemnify and hold them harmless from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the contract.